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**TESTIMONY OF
NATIONAL FEDERATION OF INDEPENDENT BUSINESS (NFIB)
OPPOSING
SB-318, AAC CAPTIVE AUDIENCE MEETINGS
LABOR & PUBLIC EMPLOYEES COMMITTEE
MARCH 8, 2022**

NFIB is the leading small business association in the nation with thousands of members in Connecticut representing a cross-section of the state's economy. For more than 75 years, NFIB has been advocating on behalf of America's small and independent business owners, both in Washington, D.C., and in all 50 state capitals. NFIB is nonprofit, nonpartisan, and member-driven. Since our founding in 1943, NFIB has been exclusively dedicated to small and independent businesses and remains so today. On behalf of those small- and independent- job-providers here in Connecticut, NFIB offers the following comments:

NFIB has significant concerns with SB-318, "An Act Concerning Captive Audience Meetings" as currently drafted and therefore urges rejection. This bill would restrict free speech for small employers in their workplaces and could inhibit important communications (both orally and visually, see lines 28-29, which seemingly could even include internal email communications within a company) between small business owners and their employees regarding relevant political matters, including legitimate and important discussions concerning legislation and regulations, as well as issues concerning potential labor organizing activity at private businesses. Passage of this unnecessary legislation could not only harm existing small business in Connecticut, but also discourage entrepreneurship and relocation of new businesses to the state.

NFIB believes that this measure: (1) is federally preempted by the National Labor Relations Act as an interference with employer speech and the balance struck between employees and employers under such; (2) could promote new and costly civil litigation and/or enforcement actions by state agencies; and (3) could prevent employers from communicating the importance of participating in the political and legislative processes, especially with regard to issues affecting small businesses or particular industries.

Regarding NFIB's concerns about federal preemption, among other potential Constitutional issues, we would like to note that serious legal questions were previously raised regarding the validity of similar legislation in 2018 (HB-5473) by then Attorney General Jepsen, who issued a formal opinion to this effect. Such reasoning and analysis should be equally applicable to the intent behind this bill currently before the Committee, as well as other similar legislation currently before the Judiciary Committee (SB-163).

The proposed legislation could adversely impact small business owners and their employees who may discuss politics, religion or other issues with customers or vendors in a small business environment as potentially violating workers' rights. New limitations would also be placed on businesses from discussing legislation or other topics that may affect a private business, a particular industry, and/or the jobs it provides for employees with those employees.

Additionally, NFIB believes that many of the provisions contained in SB-318 are ambiguous, overly broad, and subject to varying interpretations. For example: Who determines the "primary purpose" of the communication? (lines 26-27); What exactly are "casual conversations"? (line 47); Who determines and how is it determined what information is "necessary" (line 42) for an employee to perform their job duties?; etc. Actual compliance with a law such as SB-318 would be virtually impossible for many small and closely-held businesses, thus exposing the business to unnecessary and potentially costly administrative complaints and frivolous litigation.

Thank you for the opportunity to comment and for your consideration of NFIB's concerns on behalf of small business. For any questions or additional information, please contact Andy Markowski, NFIB's State Director in Connecticut, at 860-248-NFIB.